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Committee on Environment
and Public Works

Washington, D.C.

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BUSINESS MEETING

TUESDAY, FEBRUARY 9, 2021

United States Senate

Committee on Environment and Public Works

Washington, D.C.

The committee met, pursuant to notice, at 10:03 a.m. in room 106, Dirksen Senate Office Building, the Honorable Thomas R. Carper [chairman of the committee] presiding.

Present: Senators Carper, Capito, Cardin, Sanders, Whitehouse, Merkley, Markey, Duckworth, Stabenow, Kelly, Padilla, Inhofe, Cramer, Lummis, Boozman, Wicker, Ernst.

STATEMENT OF THE HONORABLE THOMAS R. CARPER, A UNITED STATES
SENATOR FROM THE STATE OF DELAWARE

Senator Carper. I call this business meeting to order.

Welcome, one and all. I want to thank our staffs for your work in helping bring us to this day. I want to thank Michael Regan for his willingness to serve in this capacity and for his family's willingness to share him with all of us.

Today we will be considering his nomination to serve as Administrator of the EPA. We will also be considering today our committee's funding resolution and committee rules, which we have worked out with Senator Capito and her staff. Thank you very much.

Before we get started, I just want to begin by welcoming, they are not all here, but I am going to go ahead and welcome each of the new members of our committee. Those new members include Senator Lindsey Graham of South Carolina, Senator Mark Kelly of Arizona, Senator Cynthia Lummis of Wyoming, Senator Alex Padilla of California, and Senator Debbie Stabenow of Michigan. We welcome one and all.

Debbie and I came to the Senate together in 2001. Michigan State, Ohio State, you would think we would be on different wavelengths, but we have been partners in a lot of stuff. I have enjoyed working with you and your leadership over in Ag, and we welcome you here today to this committee.

Senator Capito and I have agreed that we will begin voting promptly at 10:15 or as soon as we have established a quorum. At that time, we will hit the pause button with respect to members' statements and proceed straight to the items on our agenda. I will be happy to recognize any member who still wishes to speak after the voting concludes.

Now, let's turn to the business at hand. I want to begin by saying a few words about Michael. As I noted during our hearing last week, I believe he is the right person to lead the EPA during this critical time in our Nation's history. He is a man of deep faith who believes, as we all do, that we have a moral obligation to be good stewards of this planet on which we live together.

I believe Michael Regan is someone who can help unite us in common purpose. That is what he did in North Carolina. As an honest and thoughtful public servant, he brought people together to find solutions to some of the Tarheel State's most pressing environmental challenges. I believe he is fully capable of doing that again as EPA Administrator, working with all of us to address climate change and protect our air, our water, our natural resources, while helping to create good-paying jobs for the American people and strengthening our economy. He is going to make sure that all of our communities and neighbors can be part of that progress.

I also want to speak briefly about the other two items on our agenda, the committee's funding resolution as well as the rules that govern our committee's conduct. The Senate has only experience an evenly-divided Senate three times before in our history, one in 1881, again in 1953, and again when Senator Stabenow and I were rookies in the Senate in 2001.

Our committee's funding resolution and rules reflect the equal representation of the parties on EPA, consistent with Senate Resolution 27, as agreed to by Senators Schumer and McConnell. I want to personally thank Senator Capito, along with the members of the committee's minority staff, for working with the members of the majority staff and with me to reach a reasonable agreement in a very timely manner.

For the new members who have joined us, we have a history in this committee of working across the aisle. So I am not surprised that we are able to reach agreement on the rules and on the committee's funding that is consistent with our 2001 precedent so early in this Congress.

As we have done in the past, we will revisit our rules and budget, should a balance of power shift later on in the Senate.

Let me also take a moment to share with our members this morning that we are taking important action today with respect to our subcommittees, at least the naming of our subcommittees. We are renaming two of them, as most of you know. We are adding

the word "climate" back into Clean Air, Climate and Nuclear Safety Subcommittee. We are also adding the words "chemical safety and environmental justice" to our Superfund committee name, which will become the Subcommittee on Chemical Safety, Waste Management, Environmental Justice and Regulatory Oversight.

These changes are an important reflection of the direction our committee will take in 2021 as we work together to address some of the biggest challenges of our day. Those challenges including finding real solutions to climate change and to create and protect good-paying jobs. They also include ensuring that we keep the Golden Rule in mind when we develop new laws or modify existing ones, so that all communities, and that includes communities of color and low-income communities, along with the rural and urban communities, receive just and equal treatment under the law that we craft.

With that said, we now recognize our Ranking Member, Senator Capito, for any comments that she might wish to make this morning. I also want to say, I think we set a record a week or so ago when we had a hearing. We actually had to, in the course of the hearing, John Barrasso started off as the Chair, he handed it off to Shelley, and about 20 minutes before the end of our hearing, the Senate adopted an organizing resolution to make me the committee Chair. I think that call

that a troika, or something like that.

[Laughter.]

Senator Carper. You did a great job, and I am delighted to be sitting next to you. Thank you.

[The prepared statement of Senator Carper follows:]

STATEMENT OF THE HONORABLE SHELLEY MOORE CAPITO, A UNITED STATES
SENATOR FROM THE STATE OF WEST VIRGINIA

Senator Capito. Thank you, Mr. Chairman. Thank you, Senator Carper. Thank you for my hour and a half of fame as the Chair of this committee. I enjoyed it; I must admit. But congratulations to you on your new role. I know you will be great. We have already had a great relationship anyway. But I think that it bodes well for the future of the committee. We have talked more than several times and we will continue that, obviously, every week, and hopefully more frequently than that.

I also join you in welcoming our five new members. I am very grateful to have Senator Stabenow, Senator Kelly, and Senator Padilla, who I actually haven't met yet, so I have to get down there and get to know you a lot better. But, welcome. Then on the Republican side, Senator Graham, who is not here, who is very interested in looking at issues particularly pertaining to nuclear energy and the State highway system and ports. He has expressed that interest.

Also my former house colleague, Senator Cynthia Lummis, who will be filling the shoes of Senator Barrasso on this committee. Her great work at the Natural Resources Committee in the House is very, very much appreciated, and her wealth of knowledge. So I look forward to seeing how we move forward.

So now on to today's business. I am going to flip the way

I am speaking, just to make it interesting, I hope. The committee rules and budget we will adopt today give us the opportunity to operate in a balanced and a bipartisan way. We really didn't have any problems that I was made aware of in terms of trying to figure out the best way to develop the rules that are informed by precedent.

Mr. Chairman, I thank you and your staff, your very able staff, for working, and mine as well, we have a split committee, as you noted. The last time we had that split, as you noted as well, was in 2001.

Consistent with 2001, both parties will have an equal number of non-federal witnesses at each hearing. Chairman Carper and I will evenly balance the interests of the two parties in setting hearing topics and markup agendas.

The rules will likely need to be revisited, and Senator Carper said this in his statement, but we are saying it twice for emphasis, when we cease to have an equally divided Senate, just as the committee did in July of 2001, once the 50-50 split ended.

Today we also consider our committee's proposed budget, which includes a modest increase from last Congress for COLAs, oversight activities, and to pay our committee interns, which I think most of us in our personal offices are already doing that. I am happy to know that we are going to be doing that here in

the committee. It makes a whole lot of sense and I think it spreads the opportunity to a lot more people. It represents a reasonable request that will provide the resources we need to do the committee's important work.

I support adoption of the committee rules and of the committee budget.

Finally, we are also here to consider Michael Regan's nomination to be Administrator at the Environmental Protection Agency. I appreciate the several conversations that I have had with Secretary Regan. He has been very open and forthright in reaching out, I think, to all of us. I particularly am grateful for that.

As Senators Burr and Tillis noted in their introduction, Secretary Regan has been an accessible regulator to the people of North Carolina. That deserves praise. As an individual, he is absolutely the type of person that I would like to see leading a federal agency. Here is the "but." But unfortunately, officials in place at the White House and at the EPA have already set the agenda before he even achieves the office. These decisions were made before Mr. Regan, who should be, who will be the Senate-confirmed probably lead on environmental policy, even before he had his nomination hearing, staff was already in place, busy implementing what I feel are misguided and unthoughtful executive orders.

It is unclear whether Secretary Regan, if confirmed, would have any authority or had the authority to stop the regulatory march toward the Green New Deal. Gina McCarthy, EPA Administrator during President Obama's Administration, is at the White House with an all-encompassing role as the climate czar. Janet McCabe, who led efforts to establish the illegal Clean Power Plan, has been nominated to be the Deputy EPA Administrator.

It is unclear whether Secretary Regan wants to set out on a different policy course from McCarthy and McCabe that they took during the Obama Administration.

I appreciate the commitments that he made to visit West Virginia, and we all joked that it sounds like he might be visiting the entire Country and other energy-producing States. I embrace that. We were basically ignored in the past Administrations.

But on key policies, he has not committed to a different course. He did not rule out a return to the Clean Power Plan or something like it. Secretary Regan would not say whether EPA would again claim overreaching authority to force States to shift electricity generation sources.

Secretary Regan also did not commit to preserve the Navigable Waters Protection Rule. He could not rule out a return to the Obama Administration's 2015 WOTUS Rule or

something like it. Without clear commitments to oppose some policies that would economically devastate my State, I cannot support him. I can tell you that he is a good man, as our Chairman said, a good family man, really an inspiration, I think, for many young people, and a great public servant.

I hope that if confirmed he will stand up to those who work to implement policies that leave behind working families and energy producing States like mine. I cannot understate the hurt they have felt during the Obama Administration's EPA policies.

At an August 2016 Energy and National Resources Committee field hearing in Morgantown, West Virginia, WVU economist Dr. John Deskins testified. His quote: "The deep decline in coal production in recent years has had a devastating effect on our State's economy." He told us in the final year of the Obama Administration that the loss of energy jobs had created a great depression in six southern West Virginia counties, and one of those may be the county in which you were born.

Treasury Secretary Janet Yellen, in her recent confirmation hearing, referenced "The permanent scarring that is associated with job loss and unemployment that can harm the economy over the longer term." We cannot return to a third term of the Obama Administration policies at the EPA that will lead to job loss and economic harm and more permanent scarring.

Based on my strong opposition to that policy agenda and the

staff that is already in place, I will vote no on Secretary Reagan's nomination and confirmation today. I encourage the President not to box his future nominees into a predetermined policy agenda that has already been determined by staff that he has put in place.

With that, I yield back to you, Mr. Chairman.

[The prepared statement of Senator Capito follows:]

Senator Carper. Thank you, Madam.

Senator Inhofe. Mr. Chairman?

Senator Carper. Yes, please, go ahead.

Senator Inhofe. A point of inquiry here. We are going to be voting, I assume, you have changed the agenda, so it is going to be the first thing we are going to do, is going to be voting on Mr. Regan.

Can I make one statement?

Senator Carper. Yes, please.

Senator Inhofe. I think the world of Michael Regan, and I was going to make a statement, although Senator Capito made exactly the statement I was going to make. The problem I have is the agenda that he will be following, and I know that he will be doing this, is contrary to the things that we believe in Oklahoma. So while he is unquestionably a qualified individual, I think the world of him as an individual, I will be voting against him for that reason.

I have been trying to reach him since 9:30 this morning to tell him that and was not able to do that.

Thank you, Mr. Chairman.

Senator Carper. Thanks very much.

It is 10:15 now. I just want to say something if I can. We talk a lot about doing things for our planet, addressing climate change, clean air, clean water, and doing so in ways

that create economic opportunity. I just want you to know, Senator Capito and I have already begun conversation, along with Senator Manchin, about actually doing something real, particularly for West Virginia, one of the hardest hit States, including my native State, for job creation. It is very sad; you go there to see what has happened to the economy, in the communities in which my sister and I were born and raised.

It turns out, Charlie Dent, many of you know Charlie Dent, Congressman from Pennsylvania, Charlie Dent is now in charge of the Aspen Institute, the Congressional arm. I talked to him yesterday after having talked to Senator Capito about the possibility of Aspen Institute hosting maybe a two-day workshop at the University of West Virginia in Morgantown early this spring that focuses on what kinds of jobs can be created for the people whose jobs have been displaced, who have lost their jobs, what can we be doing to make sure that they have good jobs to go to, and to really get started on this right out of the starting gate. I wanted to share that with all of you.

Okay. We are going to go ahead and do the vote. If others would like to be recognized and speak once we have completed the vote, I will be happy to recognize you. Thank you all for coming. We are going to have a good time together in the next couple of years, and we are going to get a heck of a lot done. Thank you all.

I would like to call up Presidential Nomination 78-16, Michael Regan of North Carolina to be Administrator of the Environmental Protection Agency. I move to approve and report the nomination favorably to the Senate. Is there a second?

Senator Cardin. Second.

Senator Carper. I hear a second. The Clerk will call the roll.

The Clerk. Mr. Boozman?

Senator Boozman. No.

The Clerk. Mrs. Capito?

Senator Capito. No.

The Clerk. Mr. Cardin?

Senator Cardin. Aye.

The Clerk. Mr. Cramer?

Senator Cramer. Aye.

The Clerk. Ms. Duckworth?

Senator Duckworth. Aye.

The Clerk. Ms. Ernst?

Senator Ernst. No.

The Clerk. Mr. Graham?

Senator Capito. Aye by proxy.

The Clerk. Mr. Inhofe?

Senator Inhofe. No.

The Clerk. Mr. Kelly?

Senator Kelly. Aye.

The Clerk. Ms. Lummis?

Senator Lummis. No.

The Clerk. Mr. Markey?

Senator Markey. Aye.

The Clerk. Mr. Merkley?

Senator Merkley. Aye.

The Clerk. Mr. Padilla?

Senator Padilla. Aye.

The Clerk. Mr. Sanders?

Senator Sanders. Aye.

The Clerk. Mr. Shelby?

Senator Capito. No by proxy.

The Clerk. Ms. Stabenow?

Senator Stabenow. Aye.

The Clerk. Mr. Sullivan?

Senator Capito. Aye by proxy.

The Clerk. Mr. Whitehouse.

Senator Whitehouse. Aye.

The Clerk. Mr. Wicker?

Senator Wicker. Aye.

The Clerk. Mr. Chairman?

Senator Carper. Aye.

The Clerk. Mr. Chairman, the yeas are 14, the nays are 6.

Senator Carper. We have approved by a margin of 14 to 6 the nomination of Michael Regan to be Administrator of the Environmental Protection Agency, which will be reported to the full Senate.

And I now move to approve the committee budget resolution, and the committee rules en bloc. Is there a second?

Senator Capito. Second.

Senator Carper. It has been seconded. All in favor say aye.

[Chorus of ayes.]

Senator Carper. In the opinion of the Chair, the ayes have it. We have approved the committee's budget resolution and the committee rules, which will be reported favorably to the Senate.

The voting portion of this meeting is concluded, and I am now happy to recognize any member who wishes to make a statement on the nomination of Michael Regan or the committee resolutions that we have just approved. Thank you all for joining us this morning.

Would anyone like to be recognized?

Senator Whitehouse. Mr. Chairman?

Senator Carper. Yes, please, Senator Whitehouse.

Senator Whitehouse. I hadn't planned to say anything but when I heard the comments this morning, I just want to emphasize that if you are talking about permanent scarring, what we are

doing to this planet with carbon emissions portends permanent scarring of our oceans, permanent scarring of the fisheries that Rhode Islanders depend on, permanent scarring of our very coastline. We are looking at having to redraw the map of Rhode Island because we are blocked in Congress from handling this problem.

The permanent scarring of our atmosphere has been chronicled in a recent, really good, actually, article in the Atlantic Magazine, going back through the geologic and anthropologic record of what it was like on this planet when we were hitting the benchmarks we are either at or will hit for carbon dioxide concentration in the years ahead. If you want to talk about economic harm, read Freddie Mac's report about a coastal property value crash. That is not a green organization. Read, what it is now, 40 central banks, all of whom have warned of systemic harm which is global economic harm from carbon harm and related misinvestments.

The Fed, even under the Trump Administration, a couple of the local Feds wrote similar repots. The warnings of economic harm, really grievous economic harm, are loud and clear. If you want to know what it feels like to not be listened to, try being a Democrat in the Trump Administration.

So I feel the pain on the other side, and we will try, I promise you, to do a much better job of listening to you and

solving local economic pain than the Trump Administration and you did for the past four years to us.

Senator Capito. Mr. Chairman?

Senator Carper. Senator Capito.

Senator Capito. Yes, I think I appreciate the comments from my friend, Senator Whitehouse. I think if you look what we did during the Trump Administration on our 45Q where we worked together, where we found an environment and an economic win in terms of CCUS for coal, I think those are examples of where you are creating jobs and getting an environmental outcome at the same time.

I know that you are familiar with my home State of West Virginia, because we have talked about that. I think that the permanent scarring of poverty, drug abuse, joblessness, depression, hopelessness, cannot be forgotten as it was during the, I think I have a good leg to stand on in this, because I live there, have seen it.

Senator Whitehouse. I appreciate that.

Senator Capito. We have not recovered from it. So we are not in denial here. We are not saying, don't move forward with things of cleaning the air and cleaning the water and helping your particular State, which understandably right at the tip there is going to feel it first and the hardest, as our friends in Alaska, Senators Murkowski and Sullivan talk about quite

passionately.

So let's work together on this. Let's not -- I will make a deal with you. I will make a deal with you. If I erase one painful comment from the Obama Administration, you can erase one painful comment from the Trump Administration, and we will be on at least a little more united in what I think we do have shared goals. So thank you.

Senator Whitehouse. I appreciate that. I look forward to working with the Ranking Member on this. I know her sincerity and we get along personally well. I appreciate all of those things. Let's just work to support each other's concerns.

Senator Capito. Yes.

Senator Carper. We are going to need a lot of erasers.

Anyone else? Any of our new members?

Senator Kelly. Yes, Mr. Chairman?

Senator Carper. Senator Kelly.

Senator Kelly. Thank you. I am glad to be joining the committee. I look forward to working with you, Ranking Member Capito, and the rest of my colleagues on the committee in the coming months and years.

Arizona is a State defined by its natural beauty. Protecting the environment is critical to our economy and to our way of life. Arizonans are counting on Congress to pass a long-term Surface Transportation Bill to protect our scarce water

resources and support investments in good-paying, renewable energy jobs of the future. I am eager to work on all of these issues as a member of the Environment and Public Works Committee.

I also want to say a brief word about Michael Regan, whose nomination I supported just now. After listening to his testimony before the committee last week, and reviewing his responses to questions that I submitted for the record, I believe Mr. Regan is well-qualified and will make decisions in a transparent manner, based on the science and in accordance with the law and the mission of the EPA. I look forward to working with Mr. Regan to ensure that EPA regulations take into account Arizona's unique climate and geography.

Too often, EPA regulations have taken a one size fits all approach, which doesn't work for the State of Arizona. From defining dry washes and riverbeds as navigable waters to attempting to regulate naturally occurring dust storms as particulate pollution, Arizonans understand the effects of a poorly targeted environmental regulation.

Yet, the past few years have demonstrated that an absent EPA can create just as much confusion and place vulnerable communities at risk. That is why I appreciate Mr. Regan's willingness to work with me to clean up the more than 500 abandoned uranium mines on the Navajo Nation, and help improve

water and wastewater infrastructure in Arizona's border communities.

There is a lot of work to be done to responsibly protect Arizona's environment. I look forward to working with Mr. Regan to do just that.

Thank you, Mr. Chairman, and I yield back.

Senator Carper. Thank you, Senator Kelly. We are delighted you are on this committee. You can never have too many Navy guys on a committee to focus on issues like these. Welcome aboard.

Senator Kelly. Thank you.

Senator Carper. Senator Capito, anything else?

Senator Capito. No.

Senator Carper. All right. If there is no one else who would like to make a comment at this time, I would ask unanimous consent that the staff have authority to make technical and conforming changes to each of the matters approved today. I want to thank everyone for their participation in our business meeting. I especially want to thank the Ranking Member, Senator Capito, and her staff, and our staff, for helping make this possible.

This meeting is adjourned. Thank you.

[Whereupon, at 10:27 a.m., the meeting was adjourned.]